

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on March 24, 2003 at 3:28 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Alan Olson, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Daniel Fuchs (R)
Rep. Hal Jacobson (D)
Rep. Jeff Laszloffy (R)
Rep. Scott Mendenhall (R)
Rep. John Parker (D)
Rep. Diane Rice (R)
Rep. Brennan Ryan (D)
Rep. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 62, 3/20/2003; SB 308,
3/20/2003; SB 327, 3/20/2003; SB
387, 3/20/2003
Executive Action: None

HEARING ON SB 308

Sponsor: SENATOR MIKE TAYLOR, SD 37

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 1.8 - 12.4}

SEN. TAYLOR said that this is a telemarketing fraud prevention bill. He said this bill strengthens the regulations and requires more people to acquire bonds. The bill requires that the telemarketer have an agent in Montana if they don't pay into state income tax. There are some calls that cannot be exempt but they can be limited to certain hours of the day. The bill requires the nonprofit companies to disclose, if asked, how much money actually goes into the telemarketing company and how much actually goes to the nonprofit group. The bill raises the damage that can be collected. This bill does not allow predictability dialing. He said that there may be some amendments that will be proposed regarding the amount of days since a business relationship. This bill limits it to 180 days. The federal regulations allow 18 months. He said that he wouldn't have a problem with this amendment.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 12.4 - 18}

Cort Jensen, Consumer Protection Office, said that they support this bill to help prevent fraud. He said that it is important for people to ask the telemarketer how much money is actually given to the nonprofit company that they are representing.

Mark Staples, World Com., said that they support the bill with the amendment that allows for the exemption for having a business relationship within the last 18 months. He indicated that the exemption for telephone companies only affects registration and bonding.

Brad Griffin, Montana Retail Association, distributed an amendment that addresses the 18-month issue.

EXHIBIT (feh62a01)

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 18 - 23.4}

Bill Dove, Montana Police Protective Association, said that they agree that telemarketing needs to be regulated. He said that this bill would affect their fund-raising efforts for nonprofit organizations.

Ross Cannon, Attorney representing the Direct Marketing Association, said that, in Section 7 of this bill, the prohibition against predictive dialing would essentially ban all telemarketing. He said that there are six bills on various aspects of telemarketing before the legislature. He would encourage an interim study to come up with some rational legislation. He said that they do not oppose "do-not-call" bills. They oppose a "do-call" bill.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 23.4 - Tape: 1; Side: B; 1.1}

REP. BROWN asked the sponsor about fees.

SEN. TAYLOR said that the current bonding requirements are for \$50,000 bond. This bill reduces it to \$10,000 but requires more documentation to receive the bond.

REP. SHOCKLEY asked if this bill was actually weakening the law by reducing the amount of bond required and shortening the period of time that the bond is in effect.

SEN. TAYLOR said that with the additional requirements to get a bond the law is not being weakened.

Mr. Jensen said that the amount of time to have a bond in effect is reduced from one year to six months. This is the length of time that a bond must remain in place after a business ceases doing business. He agreed the \$50,000 bond gave the bill more teeth, but they found that many nonprofits have trouble getting a bond at that level.

CHAIRMAN BITNEY asked Mr. Dove to give more information on the Police Protective Association.

Mr. Dove shared the role of the Police Protective Association and the types of fund-raising activities that they do via telemarketers.

CHAIRMAN BITNEY expressed concerns of constituents who have had calls from police-type agencies who identify themselves as the police. He asked Mr. Dove to address that issue.

Mr. Dove indicated that they use telemarketing companies from out of the state. They discourage any use of high pressure sales or intimidating language.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 1.1 - 3.6}

SEN. TAYLOR said that he doesn't have a problem with the amendment that was proposed. He said that this legislation is a step in the right direction.

HEARING ON SB 327

Sponsor: SENATOR MIKE TAYLOR, SD 37

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 3.6 - 9.2}

SEN. TAYLOR said this bill is simple. This bill allows for people who do not want to be called by telemarketers, they do not have to do anything. If a person wants to receive telemarketers, they would need to put their name on a list. This bill does conflict with SB 62. This bill requires for telemarketer companies to purchase the list.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 9.2 - 11.1}

Cort Jensen, Consumer Protection Office, provided information included in his testimony.

EXHIBIT (feh62a02)

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 11.1 - 25.8}

Bill Dove, Montana Police Protective Association, said that they oppose this bill. He said that they feel this will have a

negative affect on nonprofit organizations in their attempt to raise funds.

Mark Staples, representing World Com., said that this bill makes the other bills look reasonable.

Roger Halver, Montana Association of Realtors, said that it is not a common practice for realtors, however, there are instances where they do call individuals. He said that they oppose this bill.

Greg VanHorssen, State Farm Insurance Company, said that they ask for an exemption for businesses with a license to conduct business in Montana.

Rita Hall, owner of a small business in the Flathead Valley, distributed testimony on this bill and SB 62.

EXHIBIT (feh62a03)

Don Allen, Montana Association of Insurance and Financial Advisors, said that he agreed with the exemption that Mr. VanHorssen spoke about.

Bill Johnston, Montana University System, said that they feel this bill is not clear. They would support a do-not-call list.

Rick Hays, Qwest, said that they were in opposition to this bill. He said that there needs to be a balance between the consumers and businesses. He provided a suggested amendment to the bill.

EXHIBIT (feh62a04)

Brad Griffin, Retailers Association, said that they support the amendment offered by Qwest.

Ross Cannon, Direct Marketing Association, said that they also oppose this bill.

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 25.8 - 26.4}

REP. SHOCKLEY asked Mr. Jenson if any states have this type of legislation in place.

Mr. Jensen said, "No".

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 26.4 - Tape: 2; Side: A; 1.7}

SEN. TAYLOR said that he feels the committee will need to seriously consider this bill. He said the University System is exempt as well as nonprofit companies. He said that he trusts this committee to come up with the best piece of legislation.

HEARING ON SB 62

Sponsor: SEN. DON RYAN, SD 22

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 1.7 - 10}

SEN. RYAN distributed HB 424.

EXHIBIT (feh62a05)

He said that SB 62 is very similar to HB 424. He said that Section 1 of SB 62 is a findings and purpose section. SB 62 places the responsibility of establishing a do-not-call list in the Department of Administration, Consumer Protection Office. If a person contacts the Consumer Protection Office, they can be put on a no-call list.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 10 - Tape: 2; Side: B; 0.3}

Jim Kembel, Montana Association of Chiefs of Police, said that they endorse SEN. RYAN'S bill.

Bill Dove, Police Protective Association, said that they would prefer that the responsibility for telemarketing issues be transferred to the Attorney General's Office in the Department of Justice.

Pam Bucy, Attorney General Office, said they are in support of SB 62 with the amendment placing responsibility in the Attorney General's Office.

Verner Bertelson, Montana Senior Citizens Association, said he would ask the committee's support of this bill.

Cort Jensen, Consumer Protection Office, said they are in agreement that telemarketing issues be placed in the Department of Justice.

Pat Callbeck-Harper, AARP-Montana, provided written testimony.

EXHIBIT (feh62a06)

She also distributed a copy of their consumer fraud report.

EXHIBIT (feh62a07)

Claudia Clifford, State Auditor's Office, said that they are supportive of this being placed in the Attorney General's Office.

Rick Hays, Qwest, said that they support this bill.

Geoff Feiss, General Manager, Montana Telecommunications Association, said that they support this bill.

Brad Griffin, Montana Retail Association, provided an amendment for SB 62.

EXHIBIT (feh62a08)

REP. JENT, said that he would be willing to carry this bill if it is passed through this committee. He said that the Department of Administration is not equipped to prosecute these types of issues. He said it is more appropriate to be placed under the Attorney General's Office in the Department of Justice.

John Shontz, Montana Newspaper Association, provided an amendment to the bill that would exempt community newspapers with a general circulation in Montana.

EXHIBIT (feh62a09)

Ross Cannon, Direct Marketing Association, supports SB 62.

Opponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 0.3 - 3.1}

Rita Hall said that she would have to oppose this bill for the sake of clarity.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 3.1 - 6.7}

REP. MATTHEWS asked Mr. Jensen if there was a bill to transfer his office to the Attorney General.

Mr. Jensen said, "Yes".

REP. MENDENHALL asked if the exemption for newspapers would include dailies.

Mr. Shontz said, "Yes".

REP. MATTHEWS asked if the list on the website was free of cost.

REP. JENT said that it was.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 6.7 - 13.3}

REP. RYAN said that the most important issue is that there is a do-not-call list passed. He explained that although a customer may have a business relationship with a company, the customer can ask not to be called and be placed on that company's do-not-call list. He said that the exemption of the newspaper organization was not a problem for him.

HEARING ON SB 387

Sponsor: SENATOR JOHN COBB, SD 25

Opening Statement by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 13.3 - 18.0}

SEN. COBB distributed a copy of amendments that he proposed for SB 387.

EXHIBIT(feh62a10)

He said that this bill conforms to the federal law. It makes it easier for all states. It allows for taxes to be charged and received appropriately.

Proponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 18 - Tape: 3; Side: A; 1.9}

Stacey Sprinkle, Verizon Wireless, said that the federal bill was passed in July, 2000, and the provisions became effective August 1, 2002. This bill conforms with that bill. She said that many entities worked together to put this legislation in place. They are in support of this bill.

Margaret Morgan, Western Wireless, distributed a map of the United States showing the conformity of this act. She also distributed more information on the Montana Mobile Telecommunications Sourcing Act.

EXHIBIT(feh62a11)

EXHIBIT(feh62a12)

John McNamara, Regional Tax Policy Director, AT&T, provided written testimony.

EXHIBIT(feh62a13)

Aimee Grmoljez, Verizon Wireless, provided written information.

EXHIBIT(feh62a14)

Rick Hays, Qwest, said that he would support the amendments suggested by Mr. McNamara.

Geoff Feiss, Montana Telecommunications Association, urged the committee's support of this bill.

Mark Staples, World Com., said that they join the other proponents.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Counter: 1.9 - 9.6}

REP. MENDENHALL asked if it could be simply said that taxes that might otherwise go to some other state end up here.

Ms. Sprinkle explained about the federal law.

REP. MENDENHALL asked how much of the tax is new tax and how much is revenue that is going to another state that will now come to Montana.

SEN. COBB said that most of this tax is being paid out of the state.

REP. MENDENHALL asked what percentage of this tax are consumers not paying at all versus taxes that they may be paying and going out of state.

Ms. Sprinkle said, "The entire amount."

REP. MENDENHALL asked if the amendment from AT&T fit under the title of the bill.

SEN. COBB said that would have to be referred to the staff.

REP. JACOBSON asked Ms. Morgan if they wanted the effective date changed.

Ms. Morgan said that they would like to have the effective date changed to July 1 in order to put it into place.

REP. MATTHEWS asked about current cell phone packages and how this affects those.

Ms. Sprinkle said that the amounts could change.

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 9.6 - 11.9}

SEN. COBB encouraged the committee to consider this bill will the effective date of July 1.

He said that **REP. MATTHEWS** has agreed to carry the bill in the House.

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Mary Vandebosch gave the committee information regarding the conflicts between the bills. She asked the committee to review the information before taking action on these bills.

EXHIBIT (feh62a15)

Note: Patrick Judge provided information on SJ 22. SJ 22 was heard before the committee on March 19, 2003.

EXHIBIT (feh62a16)

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ADJOURNMENT

Adjournment: 5:30 P.M.

REP. ROD BITNEY, Chairman

GLENNA MCCLURE, Secretary

RB/GM

EXHIBIT (feh62aad)